

EDITH TSHABALALA AND THE ATTORNEY-GENERAL

SUPREME COURT
NGULUBE, C.J., CHAILA AND MUZYAMBA, JJ.S.
5TH NOVEMBER, 1998 AND 22ND JULY, 1999.
(S.C.Z. JUDGMENT NO. 17 OF 1999)

Flynote

Citizenship - Non-Zambians - Whether or not they can be appointed to Permanent Pensionable Positions

Legal Process - Interpretation of statute - Literal meaning rule

Headnote

The appellant was originally a Zimbabwean citizen who was employed as an Enrolled Nurse for the government of Zambia from 1975. She only managed to acquire Zambian citizen in 1992. A question arose as to her eligibility for pension under section 35 Civil Service (Local Conditions) Act. The trial court accepted the respondent's argument that since the conditions stipulated in the Act were designed for Zambian citizens, only a citizen could enjoy them so that the appellant could only enjoy those benefits after she became a citizen. The appellant appealed to the Supreme Court.

Held:

- (i) It was not illegal by statute nor contrary to law for a non-citizen to be on permanent and pensionable terms when she was lawfully a permanent resident by virtue of marriage to a Zambian.
- (ii) The fundamental rule of interpretation of a statute is that it should be construed according to the intent expressed by parliament.

For the Appellant: Mr. L.P. Mwanawasa, SC., Mwanawasa and Company.

For the Respondent: Mr. D. Kasote, Principle State Advocate.

Judgment